

Serial No.: 10/527,125  
Art Unit: 2425

Docket PU020419  
Customer No. 24498

**Remarks/Arguments**

Applicants have carefully reviewed the Office Action mailed April 16, 2009. Claims 1 and 3-22 remaining pending in this application. Applicants request reconsideration of the above-identified application, as herein amended and in view of the following remarks.

**Allowable Subject matter:**

Applicants acknowledge, with thanks, the indication of allowable subject matter in the present application. Specifically, claims 4-9 and 18-21 have been indicated as allowable if rewritten in independent form. As discussed hereinafter, applicants maintain that the independent claims from which claims 4-9 and 18-21 depend patentably distinguish over the art of record, so applicants have chosen not to make any claim amendments at this time.

**Matter of Formality:**

This office action identifies claims 1-22 as pending in the application. However, applicant notes that in the Office action response filed and entered on September 12, 2008, claim 2 was canceled from the application. As such, the application has pending claims 1, and 3-22. This office action response will be treated according.

**Claim Rejections:**

Claims 1 and 10-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Aharoni et al. (USP 6,014,694) in view of Kukic (US PG Pub. No. 2003/0169780).

In asserting this rejection, the Examiner states that Aharoni et al. discloses the "generating at least two different bit rate representations of each program" (citing Col. 3, lines 9-17). In the previous office actions (dated July 9, 2008 and January 28, 2008) the Examiner makes the identical assertion that independent Claims 1 and 10 were anticipated by the teachings of Aharoni et al., for showing this identified feature of the presently claimed invention.

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Applicant notes that at the beginning of this office action, the Examiner states that the APPEAL BRIEF filed January 7, 2009 with respect to the rejections of claims 1, 3, 10-15, 17 and 22 have been considered and were persuasive, and withdrew the previous 102(b) rejection based on Aharoni et al. However, the new reference to Kukic now relied upon by the examiner does not cure the previously cited deficiencies of Aharoni et al. In particular, The Kukic patent does not disclose or suggest the claimed concept of "generating at least two different bit rate representations of each program".

As previously set forth, Applicants' invention as shown and described with reference to the system and method in Figures 1-3, includes a generator that generates a plurality of different bit rates for each program. Thus, for each video stream (i.e., a program), more than one version of that same program is generated having at least two different bit rates (i.e., two streams of the same program that have different bit rates).

In asserting this rejection for the third time, the Examiner has cited column 3, lines 9-17 of Aharoni as disclosing the above recited limitation, namely "generating at least two different bit rate representations of each program". However, Aharoni et al. teaches nothing of the sort. As shown and described with reference to Figures 1-3 (and column 6, line 33 to column 9, line 15) of Aharoni et al., a raw video source 12 supplies signals to a video compression/file generator 14. The output of the video/compression file generator is stored as compressed video 16. The video server 18 retrieves the information for and distribution over the network 20 to a client 22. The video/compression file generator 14 of Aharoni et al. "adjusts the compression ratio" to accommodate the measured bandwidth of the channel. This concept, however, is not the same, nor remotely suggestive of applicant's claimed principles of generating more than one representation of the same program at different bit rates for later retrieval. Aharoni clearly states "Depending on the channel bandwidth, the system adjusts the compression ratio to accommodate a plurality of bandwidths ranging from 20Kbps – POTS to Mbps for switched LAN environments...where the bandwidth adjustment is provided by offering a trade off between video resolution (e.g., 160x120, 320x420, 640x480), frame rate (e.g., 30fs, 15fs, 7.5fs) and individual frame quality (See Col 6, line 64 – Col. 7, line 6). In fact, Aharoni et al. teaches a completely different concept than the present

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principles which clearly discloses the idea of generating two or more different bit rate representations of the same (each) program.

Aharoni et al. does not provide for different representations of the same program in at least two different bit rates. In fact, the above cited portion of Aharoni et al. at Column 6, line 61 through Column 7, line 6 does not disclose or remotely suggest this concept. Rather, and in stark contrast, to the above recited claim limitation, Aharoni et al. teaches the use of a different compression ratio based on the bandwidth of the channel, but clearly does not "select" between already generated versions of the same program at different bit rates. This is clearly a primary aspect of the claimed principles of the present invention and is neither taught by, nor suggested in the teachings of Aharoni et al.

In view of this distinction alone, Aharoni et al. fails to anticipate, or render obvious the teachings of the claimed invention as recited in independent claims 1 and 10. Further, it is respectfully asserted that the additional reference to Kukic fails to cure the deficiencies of Aharoni in this respect, and are clearly silent with respect to the above recited limitation. No further comments on the additional citation to Kukic is deemed required at this time.

Claims 3 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Aharoni et al. (USP 6,014,694) in view of Kukic (US PG Pub. No. 2003/0169780) in further view of Shang et al. (US PG Pub No. 2002/0010938).

Claims 14-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Aharoni et al. (USP 6,014,694) in view of Kukic (US PG Pub. No. 2003/0169780) in further view of Krishnamurthy et al. (USP 6,665,872).

Claim 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Aharoni et al. (USP 6,014,694) in view of Kukic (US PG Pub. No. 2003/0169780) in further view of Laksono et al. (US Pub No. 2003/0046704).

Claims 3-9 depend from independent claim 1 and claims 11-22 depend from independent claim 10. In view of the clear distinction between the primary reference to Aharoni et al. and independent claims 1 and 10, for at least the reasons cited above, all dependent claims 3-9 and 11-21 are believed to be in condition for allowance.

Reconsideration and early allowance on the merits is respectfully solicited.

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### Conclusion

In view of the foregoing, applicants solicit entry of this amendment and allowance of the claims. If the Examiner cannot take such action, the Examiner should contact the applicant's attorney at (609) 734-6820 to arrange a mutually convenient date and time for a telephonic interview.

No fees are believed due with regard to this Amendment. Please charge and fee or credit any overpayment to Deposit Account No. 07-0832.

Respectfully submitted,  
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